

PROPOSED CHARGING LETTER

U.S. Department of State
Bureau of Political-Military Affairs
Office of Defense Trade Controls
Washington, D.C. 20520-0602

Mr. Henry Lavery III
President
Security Assistance International, Inc.
Suite 212
140 Little Falls Street
Falls Church, VA 22046

Dear Mr. Lavery:

The Department of State charges that Mr. Henry Lavery III as president of Security Assistance International, Inc. violated the Arms Export Control Act and the International Traffic in Arms Regulations. Four violations are alleged at this time:

RELEVANT FACTS:

Security Assistance International, Incorporated (SAI) is a corporation organized under the laws of the United States and the State of Maryland.

Security Assistance International is a U.S. Person engaged in the business of exporting defense articles and is so registered with the Department of State pursuant to section 38 of the Arms Export Control Act and 22 C.F.R. 122.1, the International Traffic in Arms Regulations.

Security Assistance International, Incorporated is subject to the jurisdiction of the United States and the Arms Export Control Act (the "Act") and International Traffic in Arms Regulations (the "Regulations").

During the period covered by the charges, SAI filed or caused to be filed applications for the authorization to export, and/or temporarily export, and/or temporarily import defense articles to or from the United States. These applications contained one or more misrepresentation(s) of material fact(s).

During the period of time covered by the charges, SAI received in excess of 280 authorizations for the export, temporary export and temporary import of defense articles. The maintenance of records requirements of the Regulations (§122.5) have not been complied with for any of these authorizations. Specifically, records concerning the "disposition" of defense articles were not maintained.

During the same period of time, SAI filed or caused to be filed applications for the authorization to export, and/or temporarily export, and/or temporarily import defense articles to or from the United States on behalf of firms which should have been registered with the Office of Defense Trade Controls (in compliance with §121.1 (a) of the Regulations) and firms which had been registered and allowed their registration to expire; thereby aiding, abetting, and counseling said companies in violating the requirement of registration (§ 122.1 (a) of the Regulations).

During the period of time covered by the charges, SAI acted as a broker on behalf of foreign entities in facilitating export transactions. SAI, using its own registration code obtained export licenses on behalf of these foreign entities and thereby facilitated the export transaction. While acting in the capacity of a broker, SAI failed to register as a broker with the Office of Defense Trade Controls. Registration as a broker is required by Part 129 of the Regulations.

THE CHARGES:

CHARGE 1

1. Commencing on or about November 1996 and continuing through April 1999, Security Assistance International (SAI) submitted 37 export applications on behalf of Cubic Communications Incorporated, Photo-Sonics Incorporated, American Apex Corporation, Tex-Shield Incorporated, and Freewing Aero Robotics Company. These applications contained misrepresentations in that the signature of the applicant was falsified by Mr. Henry Lavery III of SAI with applicant's permission.

CHARGE 2

2. Commencing on or about April 1, 1993 and continuing through April 1999, SAI received approvals from the Department of State for 231 export, temporary import and temporary export applications. SAI failed to maintain records for the disposition of the defense articles authorized for export, temporary import and temporary export in accordance with §122.5 of the Regulations for these approvals.

CHARGE 3

3. Commencing on or about February 20, 1996 and continuing through March of 1999, SAI obtained export licenses on behalf of US firms that were in the business of exporting defense articles. A number of these firms had previously been registered with the Office of Defense Trade Controls, but had allowed their registrations to expire. The remainder had never registered, even though §122.1 (a) required registration. Through the actions of obtaining export licenses on behalf of these firms and thereby allowing them to avoid the registration requirement, SAI aided, abetted, counseled and permitted a violation of §122.1 (a) of the Regulations. Such actions committed by SAI constituted violations of §127.2 (d) of the Regulations.

CHARGE 4

4. During the period of October 1996 through April 1999, on multiple occasions, SAI applied for and received authorizations for the export of defense articles on behalf of foreign entities. In these instances, SAI facilitated these transactions by obtaining export licenses on behalf of the foreign end user for sales arranged between the foreign end user and the US supplier. Engaging in this activity, SAI acted as an agent for the foreign end user and thus became a broker (§129.2 (a)). SAI at the time of these activities was not registered with the Office of Defense Trade Controls as a broker in compliance with §129.3(a) of the Regulations.

ADMINISTRATIVE PROCEDURES

In accordance with 22 C.F.R. 128, administrative proceedings are instituted against Security Assistance International for the purpose of obtaining an Order imposing civil administrative sanctions that may include the imposition of debarment and/or civil penalties. The Assistant Secretary for Political-Military Affairs shall determine the appropriate period of debarment, which shall generally be for a period of three years in accordance with 22 C.F.R. 127.7. Civil penalties not to exceed \$500,000 per violation, may be imposed in accordance with 22 C.F.R. 127.10.

A respondent has certain rights in such proceedings as described in Part 128, a copy of which I am enclosing. Furthermore, pursuant to 22 C.F.R. 128.11, cases may be settled through consent agreements, including prior to service of a charging letter.

Please be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the Arms Export Control Act and the International Traffic in Arms Regulations. The Department of State's decision to pursue one type of enforcement action does not preclude it or any other department or agency of the United States from pursuing another type of enforcement action.